IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2830 OF 2006

M/s.Belami Fine Chemicals Pvt.Ltd. ...Petitioners
V/s.
Lilavati Drupad Trivedi & Anr. ...Respondents

Shri Mahesh Londhe with Shr R.S. Pai i/b. M/s.Sanjay Udeshi & Co. for the Petitioners.
Shri Mihir Jani for Respondent No.1.

CORAM : V.M. KANADE, J.

DATED : MARCH 28, 2007

P.C. :-

1. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent. Affidavit of service filed by the petitioner is taken on record.

2. In the notice which was served on the respondent it was made clear that the petition would be decided finally at the admission stage.

3. The grievance of the petitioner interalia is that the Presiding Officer, 7th Labour Court, Mumbai, has passed the impugned Award without giving hearing to the petitioner and in fact has signed the Award which was drafted by his predecessor. It is submitted that such a course of action ought not to have been taken by the Presiding Officer as the matter ought to have been reheard.

4. In my view, the submission made by the learned

Advocate for the petitioner has to be accepted. The petitioner has taken this ground in this petition which is reflected from ground Nos.A to F in para 10. The petitioner has also made specific averment to that effect in para 9 to the petition. This averment is not controverted by the respondent. No affidavit-in-reply has been filed by the respondent though they are served.

5. In the result, the petition is allowed. The impugned order dated 5.2.2005 which is passed in Reference ITA No.381/94 is set aside and quashed. The matter is remanded back to the Labour Court, Mumbai who shall decide the case in accordance in law after hearing both the parties. The Labour Court to issue fresh notice to the respondents.

6. All contentions raised by both the parties are kept open.

7. The Labour Court to decide the case, expeditiously, within a period of two months. The parties may appear before the Labour Court on 4th April, 2007.

. Writ Petition is disposed of.

(V.M. KANADE, J.)